

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

BRUCE SMITH,

*Plaintiff,*

vs.

UNIVERSITY OF TEXAS AT SAN ANTONIO, UNIVERSITY OF TEXAS SYSTEM, JOANN BROWNING, THOMAS TAYLOR EIGHMY, THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS.

*Defendants.*

SA-23-CV-00538-OLG

## ORDER SETTING INITIAL PRETRIAL CONFERENCE

Before the Court is the above-styled and numbered cause of action, which was referred to the undersigned on January 26, 2024, for all pretrial proceedings [#22]. The record reflects that Defendants The University of Texas at San Antonio (“UTSA”), The University of Texas System (“UT System”), Dr. JoAnn Browning, and Dr. Taylor Eighmy filed a Motion to Dismiss Plaintiff’s Fourth Amended Complaint on January 5, 2024 [#19]. The Court will therefore set this case for its standard initial pretrial conference and direct the parties to confer in accordance with Rule 26. At the conference, the Court will enter a Scheduling Order in this case.

**IT IS THEREFORE ORDERED** that, pursuant to Rule 16 of the Federal Rules of Civil Procedure, this case is set for an **Initial Pretrial Conference** at **11:00 a.m. Central Time** on **April 3, 2024**. Counsel for all parties are **required to appear by Zoom** for the conference. The information to join the conference is as follows:

Join ZoomGov Meeting: <https://txwd-uscourts.zoomgov.com/j/16126729723>

Meeting ID: 161 2672 9723

If there are questions regarding the Zoom appearance, the parties should contact Judge Chestney's Courtroom Deputy by emailing [txwdml\\_chambers\\_sa\\_judgechestney@txwd.uscourts.gov](mailto:txwdml_chambers_sa_judgechestney@txwd.uscourts.gov).

Because earlier hearings in other cases may be in progress at the time attorneys log-in for their scheduled hearing, attorneys may be required to wait in the Zoom "waiting room" until the Courtroom Deputy addresses them. Parties should review the July 15, 2020 Standing Order Regarding Telephone or Video Teleconference Hearings, which is available upon request from the Courtroom Deputy and on the Court's website.

**IT IS FURTHER ORDERED** that the parties confer in the manner required by Rule 26 of the Federal Rules of Civil Procedure; further, pursuant to Local Rule CV-16 the parties should submit their Joint Discovery/Case Management Plan in a form that substantially conforms with Appendix N of the Local Rules and that answers the following questions no later than **March 29, 2024**.

1. Are there any outstanding jurisdictional issues? For removed cases based on diversity jurisdiction, do the parties agree that the amount in controversy exceeded \$75,000 at the time of removal? If not, each party should state its position on the amount in controversy.
2. Are there any unserved parties? If more than 90 days have passed since the filing of the Complaint or petition, should these unserved parties be dismissed?
3. What are the causes of action, defenses, and counterclaims in this case? What are the elements of the cause(s) of action, defenses, and counterclaims pled?
4. Are there any agreements or stipulations that can be made about any facts in this case or any element in the cause(s) of action?
5. State the parties' views and proposals on all items identified in Fed. R. Civ. P. 26(f)(3).
6. What, if any, discovery has been completed? What discovery remains to be done? Have the parties considered conducting discovery in phases?
7. What, if any, discovery disputes exist?
8. Have the parties discussed the desirability of filing a proposed order pursuant to Federal Rule of Evidence 502?
9. Have the parties discussed mediation?

During their conference, the parties should also address whether a protective order is required, and whether the protective order in Appendix H-1 (to govern standard cases) or Appendix H-2

(to govern complex cases) of this Court's Local Rules is appropriate. The Court will address the substance of the parties' joint report and discovery plan at the Initial Pretrial Conference.

**IT IS FURTHER ORDERED** that the parties submit a **proposed scheduling order** pursuant to Local Rule CV-16(c), no later than **March 29, 2024**. The Court will discuss with the parties any proposed changes to the Court's standard scheduling order based on the unique circumstances of this case at the Initial Pretrial Conference.

The proposed scheduling order shall contain suggestions for the following deadlines:

1. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by \_\_\_\_\_, and each opposing party shall respond, in writing, by \_\_\_\_\_.

2. The parties shall file all motions to amend or supplement pleadings or to join additional parties by \_\_\_\_\_.

3. All parties asserting claims for relief shall FILE their designation of testifying experts and SERVE on all parties, but not file, the materials required by Fed. R. Civ. P. 26(a)(2)(B) by \_\_\_\_\_. Parties resisting claims for relief shall FILE their designation of testifying experts and SERVE on all parties, but not file, the materials required by Fed. R. Civ. P. 26(a)(2)(B) by \_\_\_\_\_. All designations of rebuttal experts shall be FILED, and the materials required by Fed. R. Civ. P. 26(a)(2)(B) for such rebuttal experts, to the extent not already served, shall be SERVED, within 14 days of receipt of the report of the opposing expert.

4. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within (14) days of receipt of the written report of the

expert's proposed testimony, or within (14) days of the expert's deposition, if a deposition is taken, whichever is later.

5. The parties shall complete all discovery on or before \_\_\_\_\_. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

6. All dispositive motions shall be filed no later than \_\_\_\_\_. The timing and page limitations for briefing on any motion shall be governed by the relevant provisions in Local Rule CV-7.

7. The parties shall mediate this case on or before \_\_\_\_\_, and file a report in accordance with Local Rule CV-88 after the mediation is completed.

8. This case is set for pretrial conference on \_\_\_\_\_ at \_\_\_\_\_. **The parties should consult Local Rule CV-16 regarding matters to be filed in advance of a pretrial conference and/or trial.**

9. This case is set for jury selection/bench and trial on \_\_\_\_\_ at 9:30 a.m.

**IT IS SO ORDERED.**

SIGNED this 5th day of February, 2024.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE